

DAC/3662/17  
#42Pra titi ner's D cket No. MUR-3494**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: David B. Smith

Application No.: 0 8 / 976,440      Group No.: 3662  
 Filed: November 25, 1997      Examiner: Nelson Moskowitz  
 For: TRANSMISSION OF DATA IN BOREHOLES

**Box DAC****Assistant Commissioner for Patents****Washington, D.C. 20231****ATTENTION: Petition Information****Crystal Park One, Suite 520****(M.P.E.P. § 1002.02(b), 7th ed.)**

**PETITION FOR REVIVAL OF AN APPLICATION  
 FOR PATENT ABANDONED UNINTENTIONALLY UNDER  
 37 C.F.R. § 1.137(b)**

**NOTE:** "In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents." 37 C.F.R. § 1.137(c).

**NOTE:** In accordance with the Notice of November 5, 1990 (1121 O.G. 6), an application abandoned under 37 C.F.R. § 1.53(d) for failure to timely provide the appropriate filing fee, oath or declaration and/or surcharge may be revived under the procedure of 37 C.F.R. § 1.137(b).

1. This application became abandoned on July 3, 2001

**NOTE:** Extensions under 37 C.F.R. § 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of § 1.136 can no longer be used, then the the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival. M.P.E.P. § 711.03(c), 6th ed., rev. 2.

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

☒ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

**FACSIMILE**

☐ transmitted by facsimile to the Patent and Trademark Office.

Date: August 23, 2001

Signature

Allan Ratner

(type or print name of person certifying)

**RECEIVED****AUG 28 2001****OFFICE OF PETITIONS**

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620.00 OP

2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. § 1.137(b)(3).

3. Response or action required

- ☐ has been filed.  
☒ is attached.

(complete the following, if applicable)

**NOTE:** The PTO accepts the filing of a continuing application as a response under 37 C.F.R. 1.137. To facilitate processing in such a case, the petition to revive should specifically refer to the filing of a continuing application and also include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. Notice of May 13, 1983, (1031 O.G. 11-12). See also M.P.E.P. § 711.03(c), 6th ed., rev. 2. "In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof." 37 C.F.R. § 1.137(b)(1).

- ☐ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

4. Fee (37 C.F.R. 1.17(m))

Application status is:

- ☒ Small business entity—fee \$620.00  
☐ A statement is attached.  
☒ A statement was filed.  
☐ Other than small entity—fee \$1,240.00

5. Payment of fee

- ☒ Enclosed is our check in the amount of: ...  
☒ \$620.00. ☐ \$1,240.00.  
☐ to Deposit Account No. \_\_\_\_\_  
☐ to Credit Card as shown on the attached credit information authorization form PTO-2038.

A duplicate of this petition is attached.

**WARNING:** Credit card information should **not** be included on this form as it may become public.

The Assistant Commissioner for Patents  
is hereby authorized to charge payment  
to Deposit Account No. 18-0350 of any  
fees associated with this communication.

(complete the following, if applicable)

- ☐ Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).
- ☐ Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).

Date: 8/23/01

\_\_\_\_\_  
Signature of person making statement  
that abandonment was due to an unintentional delay

\_\_\_\_\_  
(type or print name of person making statement)

\_\_\_\_\_  
Residence of person making statement

\_\_\_\_\_  
SIGNATURE OF PRACTITIONER

Allan Ratner

(type or print name of practitioner)

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